

Unrelated income; pet boarding and grooming services. The income derived by an exempt organization, organized and operated for the prevention of cruelty to animals, from providing pet boarding and grooming services for the general public is income from unrelated trade or business under section 513 of the Code.

Advice has been requested whether amounts realized by a charitable organization exempt under section 501(c)(3) of the Internal Revenue Code of 1954 from the boarding and grooming of pets under the circumstances described below, constitutes income from unrelated trade or business within the meaning of section 513 of the Code.

The organization is organized and operated exclusively for the charitable purpose of prevention of cruelty to animals within the meaning of section 501(c)(3) of the Code. In furtherance of such purpose, it maintains and operates an animal shelter for the care, protection, placement, and, if necessary, humane disposal of stray or unwanted animals. In addition, as a means of producing income for use in furtherance of its charitable purpose, the organization provides pet boarding and grooming services for a fee for members of the general public desiring such services for their pets. The activity is regularly carried on, and all of the income therefrom is devoted to the charitable functions of the organization.

Section 511(a) of the Code imposes a tax upon the unrelated business taxable income (as defined in section 512) of organizations exempt from Federal income tax under section 501(c)(3). Section 512(a) defines 'unrelated business taxable income' as the gross income from any 'unrelated trade or business' regularly carried on by the organization as computed in the manner provided in section 512.

The term 'unrelated trade or business' is defined in section 513 of the Code as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its exempt function.

Section 513(c) of the Code and section 1.513-1(b) of the Income Tax Regulations provide that trade or business includes any activity which is carried on for the production of income from the performance of services.

Section 1.513-1(d)(2) of the regulations provides that trade or business is 'substantially related' to purposes for which exemption is granted only if the performance of services from which the gross income is derived 'contributes importantly' to the accomplishment of those purposes.

The purpose and function constituting the basis of the exemption of the subject organization as a charity under section 501(c)(3) of the Code is the prevention of cruelty to animals by operating a shelter and providing for the care, protection, placement and, if necessary, the humane disposal of stray or unwanted animals.

Providing per boarding and grooming services for owners of pets under the circumstances described is an ordinary commercial service which has no causal relationship to the prevention of cruelty to animals. The animals for which the services are provided are neither unwanted nor the victims of any form of cruel or inhumane treatment. Therefore, the furnishing of such services does not 'contribute importantly' to the accomplishment of the subject organization's exempt purpose within the meaning of section 1.513-1(d)(2) of the regulations.

Accordingly, since the operation of pet boarding and grooming services by the organization constitutes the conduct of trade or business and is regularly carried on, the income therefore is income derived from unrelated trade or business under section 513 of the Code.